



भारत का राजपत्र The Gazette of India

असाधारण
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 189]

नई दिल्ली, शनिवार, मई 15, 1982/वैशाख 25, 1904

No. 189] NEW DELHI, SATURDAY, MAY 15, 1982/VAISAKHA 25, 1904

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके
Separate paging is given to this Part in order that it may be filed as a separate compilation

MINISTRY OF LABOUR

NOTIFICATION

New Delhi, the 15th May, 1982

S.O. 322 (E).—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following interim award of Shri G. Ramanujam and Shri R. P. Nevatia, Arbitrators in the industrial dispute between the employees in relation to the Cement Manufacturers' Association and their workmen represented by the Indian National Cement and Allied Workers' Federation which was received by the Central Government on the 10th May, 1982.

BEFORE SHRI G. RAMANUJAM AND SHRI R.P. NEVATIA

Arbitrators appointed under Section 10-A of the Industrial Disputes Act, 1947.

In the matter of

Industrial Disputes between the workmen and the managements in the Cement Industry.

The Workmen in the Cement Industry,

REPRESENTED BY:

The Indian National Cement & Allied Workers' Federation, Bombay-4 and others

AND

The employers in the Cement Industry,

REPRESENTED BY:

The Cement Manufacturers Association, Bombay-20

191 GI/82

INTERIM AWARD

By their agreement dated 4th December, 1981 the Cement Manufacturers' Association, Bombay, on behalf of the Cement Manufacturers' in India and the Indian National Cement and Allied Workers' Federation, Bombay, on behalf of the workmen employed in the Cement Factories and Mines in the country, decided to refer to arbitration by us under Section 10-A of the Industrial Disputes Act, 1947, the Industrial disputes arising out of some 35 demands mentioned in the charter of demands of the National Cement and Allied Workers' Federation.

2. The agreement was published in the Gazette India dated 1st January, 1982. A further notification in the Gazette of India under Sub-section (3A) of Section 10-A of the Industrial Disputes Act was also published on 7th January, 1982 by the Government of India to notify for the information of the employers and workmen, who are not parties to the arbitration agreement but who are concerned in the dispute, so that they shall also be given an opportunity of presenting their case before the arbitrators.

3. The Board held its preliminary sitting in Bombay on 8th February, 1982 and settled the programme of its work by consent of the parties. We accordingly directed the Indian National Cement and Allied Workers Federation as well as other Central unions, namely, the All India Cement Workers' Federation, the Centre of Indian Trade Unions, Bharatiya Mazdoor Sangh and the National Labour Organisation, to submit their written statements of justification of demands on behalf of the workmen who are members of their affiliates in the Cement Industry by the 5th March, 1982. We also directed the Cement Manufacturers Association, Bombay, on behalf of its constituents to file their written counter statement's by 31st March, 1982.

4. Any registered trade union in the industry as well as any cement employer who is not a party to the arbitration agreement, were also requested by the Board to place their points of view in writing before the Board before 5th March, 1982 and 31st March, 1982 respectively.

5. The Board also requested all Cement Units, including mines, to display on their Notice Boards for the information of the workers and their unions a copy of each of the Government notification dated 4th January, 1982 and 7th January, 1982, the arbitration agreement dated 4th December, 1981 together with the charter of demands referred to arbitration by the Board. The said notice also requested the workers and their trade unions, as well as the Cement employers who might wish to do so, to send their written statements, if any, to us so as to reach the Board's secretariate before the 5th March, 1982 and 31st March, 1982 respectively. A two-weeks further time was given to the parties to file a rejoinder if they feel necessary.

6. Both sides were also directed to furnish in writing a list of documents on which they would like to rely as well as the list of witnesses, if any, to substantiate their case before 14th April, 1982.

7. The Cement Manufacturers' Association, Bombay and All India Cement Workers Federation wanted extension of time for the submission of their written statements which was allowed partially. While the Cement Manufacturers' Association filed their written statement within the extended time limit the All India Cement Workers Federation did not file their claim statement till date.

8. One of the demands referred to us for arbitration, namely, demand No. 33 relates to Interim Relief. It reads :

"All employees shall be paid Rs. 350 per month from 1-10-1981 as interim relief".

9. During the preliminary sittings held on 8th February, 1982 at Bombay, it was decided that this issue of interim relief will be taken up first at its next Bombay sittings which was scheduled to be held on 15th and 16th of April, 1982.

10. In the meanwhile, the All India Cement Workers Federation filed a writ petition in the Karnataka High Court and obtained a stay of proceedings by this Board. The Board could not therefore, meet on the 15th and 16th April, 1982 as originally scheduled for hearing the parties on the interim relief demand.

11. The Board was however, informed on 22nd April, 1982 that the stay was vacated by the Karnataka High Court. The Board sat on the 27th and 28th of April, 1982 at Bombay for hearing the interim relief issue.

12. Both the Indian National Cement and Allied Workers Federation and the Cement Manufacturers' Association observed that the Board will not be able to complete its labours within six months from the date of reference and therefore, agreed to extend the time limit upto October, 1982. Looking to the immensity of the task it is doubtful whether we will be able to complete our work even within this extended period.

13. The India National Cement and Allied Workers Federation and its constituent unions were represented by Shri C. L. Dudhia. Representatives of the National Labour Organisation and its affiliates and the Representatives of the Bharatiya Mazdoor Sangh were present on the 27th and 28th April sittings and addressed the Board on the demand for interim relief.

14. The Cement Manufacturers' Association was represented by Shri Kaka, learned Counsel for the Cement Manufacturers' Association, who argued the case of the management on the demand for interim relief. Shri D. K. Aggarwal who represented the Rohtas Industries Limited separately also addressed the Board on the subject.

15. Shri C. L. Dudhia, the learned Counsel, appearing for the Indian National Cement and Allied Workers Federation submitted that it is very necessary that interim relief should be given to the workers with effect from 1-10-1981 as the

previous award had expired on 30-9-1981. He also pointed out that already seven months have elapsed and perhaps the proceedings of the Board will take a much longer time than now anticipated and therefore, the demand for interim relief was justified.

16. Shri Kaka, the learned Counsel appearing for the Cement Manufacturers' Association opposed this demand for interim relief and said that even according to the extended time the Board is expected to complete its labours by October, 1982, and since we have only six months to go, there is no urgency for any relief now.

17. Continuing his argument on the question of interim relief Shri Dudhia pointed out that the future of the Cement Industry in our Country is bright and the industry has received almost a windfall in the Government's recent decision to allow a dual price-policy, namely, 66-2/3% of the installed capacity alone will be subject to the levy price; and the employers will be free to sell in free markets the excess. He further pointed out that free market sale of Cement is currently ranging about Rs. 70 per bag. Even assuming this price level comes down a bit still the profit margin for the industry will be huge and that it certainly cannot plead lack of capacity to pay a substantial interim relief in wages. Shri Dudhia stated that even according to the Cement Manufacturers' Association's assessment, the payment of interim increase of Rs. 350 per worker per month would hardly come to Re. 1 per bag and this burden should be of no consequence to the industry in view of the huge profits that are now earned by them by the free market sale of Cement.

18. When it was pointed out to Shri Dudhia that the amount suggested by him seems to be unrealistically high he said that the federation would be flexible enough to accept any sum decided as reasonable by the Board. Shri Dudhia further added that substantial wage increases have been given ranging from Rs. 200 to Rs. 500 per month per workers in many industrial undertakings in and around Bombay. He also cited many agreements and also an extract from Shri Naval Tata's article which gave the wage levels in different industries, all well over a Rs. 1,000 per month.

19. Shri Dudhia suggested that the coverage of workmen for purposes of interim relief pending detailed arguments and sifting of evidence before the Board with regard to the demand by the unions or extended coverage, that interim relief should be awarded to all categories of employees who were covered by the previous arbitration award for the cement industry.

20. Shri Dudhia also wanted that any interim increase that may be awarded should take effect from 1-10-1981.

21. Shri D. S. Vasavada, on behalf of the National Labour Organisation and the representative of the Bharatiya Mazdoor Sangh supported the arguments presented by Shri C. L. Dudhia on behalf of the Indian National Cement and Allied Workers Federation.

22. No representatives from AITUC or from CITU were present.

23. Replying to the arguments of Shri C. L. Dudhia, Shri Kaka on behalf of the CMA, said that it is true that Government has allowed a dual pricing policy and the production in excess of 66-2/3% of the installed capacity can be sold in free market in respect of established units, and 50% in respect of new units. But this must not lead to an impression that 50% in respect of new units and 33-1/3% of production in respect of old units could be sold in the free market because the utilisation of installed capacity of all old and new industries are much less, ranging about 78% and therefore, the profit accruing to the industry was not so high as imagined by the workers side.

24. Shri Kaka further pointed out that this facility to have a free-market sale through partial de-control has been given by the Government to enable the industry to modernise and expand. It would not be proper therefore, to fritter away the resources on wage increase and improving other conditions of service. Indeed, he added, nothing will be left to be passed on to labour after the industry's requirements are fully met. He further contended that the wage levels obtaining

in the Cement Industry are fair and do not warrant any increase, much less any interim relief.

25. When it was pointed out to Shri Kaka that if the workers are not prepared to cooperate with the management in improving production and productivity, all the concessions given to the industry by the Government may not be productive, and if the worker knows he is not going to be allowed to share in the prosperity, he may not be interested in producing any Cement at all, Shri Kaka pointed out that the workmen will certainly be allowed to participate in the prosperity of the industry through annual profit-sharing Bonus and not necessarily through wage increase. He, however, stated having submitted his position, he would leave the question of interim relief to the best judgement of the arbitrators.

26. Shri Kaka also produced agreements in some public sector undertakings like SAIL, COAL INDIA, BHEL, HMT etc., for purposes of comparing wage levels in these industries with the wage-levels obtaining in the Cement Industry. But it was pointed out to him that these agreements are about to expire shortly, this year itself, and therefore they cannot be a useful guide, apart from the moot point how far these industries themselves are strictly comparable to the Cement Industry.

27. Shri Kaka characterised the wage levels mentioned by Shri Naval Tata in his article as only the maximum of these grades and the companies themselves were not comparable as they were all Bombay-based.

28. Shri Duthia in his reply said that he does not accept that utilisation of installed capacity was only around 78%. He indeed pointed out that the Cement Corporation of India—a Public Sector Undertaking—has a record of 100% utilisation of installed capacity. In some units of the Cement Corporation of India, it has gone up to even 126%. If the workers are not treated fairly, then they might as well decide not to co-operate with management in increasing production and productivity.

29. The Labour-side pointed out that Shri Kaka's arguments were not correct, as Shri Naval Tata has also cited the figures for Banks and LIC which are operating throughout the country and not only in Bombay.

30. In answer to the suggestion by Shri Kaka that the Board should approach the wage-fixation on an industry-cum-region basis, labour side pointed out that this will not be applicable to the Cement Industry as even in the earlier arbitration award and the Wage Boards, the whole country has been taken as one region.

31. We have carefully gone through all the documents both side wanted us to pursue and consider. We have also given our careful consideration to all the arguments by the learned Advocates for the Labour and the Management Side as well as the examples they had cited. We have also estimated roughly the additional prosperity to the industry on account of partial de-control and its added capacity to pay labour along with meeting industry's other requirements.

32. We would prefer not to go by the Companies quoted by either Shri Duthia, or the Companies quoted by Shri Kaka as they are neither comparable nor a guide.

33. The Cement Industry will have to hammer out its own wage pattern for itself looking to its own capacity to pay both present and potential and it needs for modernisation and expansion. We would also keep in mind the interest of the consumers. At the same time we cannot ignore the advantages accruing to the industry arising out of the partial decontrol.

34. The demand for cement is going to be greater than the supplies for quite some years to come. There is therefore the need for maximising production and productivity in every one of our Cement Manufacturing Units and Mines. It is therefore obvious that labour must be adequately motivated to rise up to the occasion and co-operate with the management in the task of increasing production through improved productivity.

35. We are also convinced that it will take a longer time to complete our labours than was originally anticipated and subsequently extended, looking to the fact that we have to deal with as many as 35 demands and some of them having several sub-demands.

36. We are therefore, convinced that there is a case for an interim award granting an interim increase in wages.

37. Looking to all these circumstances and after carefully considering the points of view urged before us by both the sides, we make the following :

INTERIM AWARD

1. The interim increase in wages will be Rs. 80 (Rupees eighty only) per month per worker.
2. We do not want to split this amount at this stage and say how much of this is basic pay and how much is Dearness allowance. We will do this when we give our final award.
3. But the entire interim increase awarded herein will qualify for all benefits such as P.F. Gratuity, Bonus Overtime, leave with pay, ESI/, etc.
4. This interim increase of Rs. 80 per month will be the same to all categories of employees.
5. All categories of employees who were covered by our previous arbitration award will be eligible for this interim increase.
6. This interim increase in wages will take effect from 1-1-1982 and the arrears will be paid on or before 15th June, 1982.

Signed at New Delhi on this the 7th May, 1982.

(R. P. NEVATIA)

(G. RAMANUJAM)

ARBITRATORS

[No. L-29025/24/81-D.III(B)]

SHASHI BHUSHAN, Under Secy.

